

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

VIRGINIA COALITION FOR IMMIGRANT
RIGHTS, *et al.*,

Plaintiffs,

v.

SUSAN BEALS, in her official capacity as
Virginia Commissioner of Elections, *et al.*,

Defendants.

Case No. 1:24-cv-1778

UNITED STATES OF AMERICA,

Plaintiff,

v.

COMMONWEALTH OF VIRGINIA, *et al.*,

Defendants.

Case No. 1:24-cv-1807

DECLARATION OF STEVEN L. KOSKI

I, Steven L. Koski, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I currently serve as Legal and Compliance Advisor at the Virginia Department of Elections (ELECT). I have served in this role since June 10, 2024. I began my employment at ELECT in the role of Policy Analyst on June 10, 2022.

2. In my capacity as Legal and Compliance Advisor at ELECT, I am familiar with ELECT's policies and practices, its relationship with the Virginia Department of Motor Vehicles (DMV), and the provisions of Virginia law governing Virginia's voter list.

3. The National Voter Registration Act requires every state motor vehicle authority to have in place procedures such that a person applying for a motor vehicle driver's license can

simultaneously register to vote in the same transaction. This process is known as “motor voter,” and when conducted online or via electronic terminal in-person at a DMV customer service center, it is known as “electronic motor voter” (EMV).

4. In 2006, the Virginia legislature passed, then-Governor Timothy Kaine signed, and the Department of Justice precleared, amendments to the Virginia Code that streamlined implementation of the National Voter Registration Act.

5. The DMV asks all persons who apply for any document, or a renewal of a document, issued pursuant to the provisions of Chapter 3 of Title 46.2 of the Code of Virginia—except for applicants for identification privilege cards or driver privilege cards—to attest whether they are citizens of the United States. The DMV also provides the option to decline to answer and to decline to have this information transmitted to ELECT for voter registration purposes. Individuals applying for identification privilege cards or driver privilege cards must attest that they are not citizens of the United States as part of the application for those credentials.

6. The DMV asks the citizenship question when issuing, renewing, replacing, or changing the address associated with a driver’s license or identification card.

7. All individuals conducting a motor voter-eligible transaction, whether in-person at a customer service center or online on the DMV website, are presented with the citizenship question and given the option to decline to answer.

8. Individuals who respond to the citizenship question by indicating that they are citizens also receive a warning that intentionally making a materially false statement during the transaction constitutes election fraud and is punishable under Virginia law as a felony.

9. Unless a person engaging in one of these eligible transactions affirmatively declines, everyone conducting such a transaction is also presented with a voter registration application.

10. Because one must be a citizen to vote, the voter registration application asks about citizenship.

11. If a person inputs that he is not a citizen, a second screen appears stating that noncitizens cannot vote and asking the person to confirm that he is not a citizen.

12. Virginia law requires the DMV to “furnish monthly to the Department of Elections a complete list of all persons who have indicated a noncitizen status” during an eligible motor voter transaction. Va. Code § 24.2-410.1(A).

13. This list does not include individuals who decline to respond to the citizenship question or leave it blank.

14. Rather, the list includes only people who have affirmatively indicated that they are not U.S. citizens.

15. The DMV also transmits to ELECT information about individuals who apply for a driver privilege card or an identification privilege card because as part of the application for those credentials, the applicant must attest that he is not a citizen of the United States.

16. In addition, the DMV obtains information about individuals’ legal presence status when they submit documentation of their residency when applying for certain credentials, such as learner’s permits or driver’s licenses.

17. Some documentation of residency will indicate that the individual is not a citizen, such as documentation of lawful permanent residence, asylum status, or a resident alien card.

18. The DMV also transmits to ELECT information about individuals who engage in an eligible transaction and affirm that they are citizens but whose documentation on file with the DMV indicates that they are not citizens.

19. The DMV does not require new legal presence documentation for many transactions subsequent to the initial driver's license/identification card transaction, although DMV still provides to ELECT information concerning individuals who conduct these transactions and previously provided a document indicating noncitizen status. Therefore, individuals on this list may have become citizens since first providing that documentation to the DMV and initially having it verified through the Department of Homeland Security Systematic Alien Verification for Entitlements (SAVE) database. Recognizing this possibility, ELECT does not take any action based on legal presence information the DMV has on file that is inconsistent with an attestation of citizenship unless the individuals' current legal status has been recently—within 30 days or fewer before any action—verified through the SAVE database.

20. Based upon ELECT's records, the list DMV provides to ELECT includes data fields for the full name, social security number, birth date, address, sex, DMV customer number, EMV transaction timestamp, DMV legal presence code, full response sent to DMV by SAVE, verification/case number returned from the SAVE database for that individual, and types of documents used to prove legal presence.

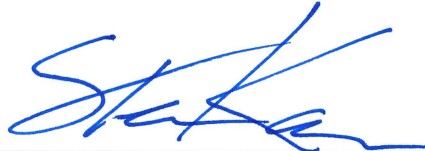
21. ELECT collaborated with the DMV to analyze DMV transactions that occurred between July 1, 2023, and June 30, 2024, in which individuals indicated that they were U.S. citizens but had documentation on file with the DMV indicating noncitizen status.

22. The DMV conducted new SAVE verifications to obtain the most recent citizenship information for those individuals.

23. ELECT ultimately identified 1,274 potential matches between individuals identified in this analysis and registered voter records, which ELECT then provided to the local general registrar for each potentially matched individual's jurisdiction.

I declare under penalty of perjury that, to the best of my knowledge, the foregoing is true and correct.

Executed on October 22, 2024



Steven L. Koski
Legal and Compliance Advisor
Virginia Department of Elections